

**Introduced by Senator Cedillo**

February 27, 2009

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An act to amend Section 512 of the Labor Code, relating to employment.

**LEGISLATIVE COUNSEL'S DIGEST**

SB 665, as introduced, Cedillo. Employment: meal periods.

Existing law requires an employer to provide its employees with a meal period of not less than 30 minutes after working more than 5 hours per day and a 2nd meal period of the same duration after working more than 10 hours per day. Under existing law, these meal periods may be waived under certain conditions by mutual consent of the employer and employee. Existing law makes a violation of these provisions a misdemeanor.

This bill would allow an employer of a registered security officer to provide on-duty meal periods instead if the officer is covered by a valid collective bargaining agreement containing specified terms or has a written on-duty meal period agreement with his or her employer containing specified terms.

Because the bill would make these on-duty meal provisions subject to specified terms, the violation of which would be a crime, it would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

SECTION 1. Section 512 of the Labor Code is amended to read:

512. (a) An employer may not employ an employee for a work period of more than five hours per day without providing the employee with a meal period of not less than 30 minutes, except that if the total work period per day of the employee is no more than six hours, the meal period may be waived by mutual consent of both the employer and employee. An employer may not employ an employee for a work period of more than 10 hours per day without providing the employee with a second meal period of not less than 30 minutes, except that if the total hours worked is no more than 12 hours, the second meal period may be waived by mutual consent of the employer and the employee only if the first meal period was not waived.

(b) Notwithstanding subdivision (a), the Industrial Welfare Commission may adopt a working condition order permitting a meal period to commence after six hours of work if the commission determines that the order is consistent with the health and welfare of the affected employees.

(c) Subdivision (a) does not apply to an employee in the wholesale baking industry who is subject to an Industrial Welfare Commission wage order and who is covered by a valid collective bargaining agreement that provides for a 35-hour workweek consisting of five ~~seven-hour~~ 7-hour days, payment of ~~1 and~~  $\frac{1}{2}$  ~~one and one-half~~ times the regular rate of pay for time worked in excess of seven hours per day, and a rest period of not less than 10 minutes every two hours.

(d) If an employee in the motion picture industry or the broadcasting industry, as those industries are defined in Industrial Welfare Commission Wage ~~Orders~~ *Order Numbers* 11 and 12, is covered by a valid collective bargaining agreement that provides for meal periods and includes a monetary remedy if the employee does not receive a meal period required by the agreement, then the terms, conditions, and remedies of the agreement pertaining to meal periods apply in lieu of the applicable provisions pertaining to meal periods of subdivision (a) of this section, Section 226.7, and Industrial Welfare Commission Wage ~~Orders~~ *Order Numbers* 11 and 12.

1     ~~(e) Notwithstanding subdivisions (a) and (b), on-duty meal~~  
2     ~~periods for which full compensation is provided to the employee~~  
3     ~~are permitted for a security officer registered pursuant to Chapter~~  
4     ~~11.5 (commencing with Section 7580) of Division 3 of the Business~~  
5     ~~and Professions Code to whom either of the following is applicable:~~

6     ~~(1) The security officer is covered by a valid collective~~  
7     ~~bargaining agreement and the agreement expressly provides for~~  
8     ~~the wages, hours of work, and working conditions of employees~~  
9     ~~and expressly provides for meal periods for those employees, final~~  
10    ~~and binding arbitration of disputes concerning application of its~~  
11    ~~meal period provisions, premium wage rates for all overtime hours~~  
12    ~~worked, and a regular hourly rate of pay not less than 30 percent~~  
13    ~~more than the state minimum wage.~~

14    ~~(2) The security officer and his or her employer have entered~~  
15    ~~into a written on-duty meal period agreement that complies with~~  
16    ~~all of the following:~~

17    ~~(A) The security officer is provided the opportunity to take a~~  
18    ~~30-minutes on-duty meal period during each work period of five~~  
19    ~~or more hours.~~

20    ~~(B) If the security officer works 10 or more hours in one work~~  
21    ~~period, the security officer may take a second, compensated on-duty~~  
22    ~~meal period under the same conditions as the first on-duty meal~~  
23    ~~period.~~

24    ~~(C) The security officer receives full compensation for on-duty~~  
25    ~~meal periods.~~

26    ~~(D) The security officer voluntarily entered into the written~~  
27    ~~on-duty meal period agreement.~~

28    ~~(E) The written agreement states that the security officer may~~  
29    ~~revoke the agreement in writing at any time.~~

30    SEC. 2. No reimbursement is required by this act pursuant to  
31    Section 6 of Article XIII B of the California Constitution because  
32    the only costs that may be incurred by a local agency or school  
33    district will be incurred because this act creates a new crime or  
34    infraction, eliminates a crime or infraction, or changes the penalty  
35    for a crime or infraction, within the meaning of Section 17556 of  
36    the Government Code, or changes the definition of a crime within  
37    the meaning of Section 6 of Article XIII B of the California  
38    Constitution.